

REMARKS/ARGUMENTS:

Claims 1-6 are pending in the current application. Claim 7 has been added. Claims 1-6 were rejected under 35 U.S.C. § 102(b) as being anticipated by Oliver (U.S. Patent No. 4,266,813). Claims 1-6 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor (U.S. Patent No. 3,612,584) in view of Weir, III. (U.S. Patent No. 4,712,812). Applicant respectfully traverses both rejections.

Claims 1-6 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Oliver. Anticipation "requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee." Hoover Group, Inc. v. Custom Metalcraft, Inc., 66 F.3d 299, 302, 36 U.S.P.Q.2d 1101, 1103 (Fed. Cir. 1995). "[P]rior knowledge by others requires that all of the elements and limitations of the claimed subject matter must be expressly or inherently described in a single prior art reference." Elan Pharms., Inc. v. Mayo Foundation for Medical Educ. & Research, 304 F.2d 1221, 1227, 64 U.S.P.Q.2d 1292 (Fed. Cir. 2002) (citing In re Robertson, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950 (Fed. Cir. 1999); Constant v. Advanced Micro-Devices, Inc., 848 F.2d 1560, 1571 7 U.S.P.Q.2d 1057, 1064 (Fed. Cir. 1988)). "The single reference must describe and enable the claimed invention, including all claim limitations, with sufficient clarity and detail to establish that the subject matter already existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention." Id. (citing Crown Operations Int'l, Ltd. v. Solutia Inc., 289 F.3d 1367, 1375, 62 U.S.P.Q.2d 1917, 1921 (Fed. Cir. 2002); In re Spada, 911 F.2d 705, 708 15 U.S.P.Q.2d 1655, 1657 (Fed. Cir. 1990)). See also PPG Indus., Inc. v. Guardian Indus. Corp., 75 F.3d

1558, 1566, 37 U.S.P.Q.2d 1618, 1624 (Fed. Cir. 1996) (emphasis added).

Claim 1 has been amended to require "a first hollow fitting ... having a sleeve with a detent" and having "a second hollow fitting ... with the second end having a groove for receiving the detent of the first hollow fitting." This amendment gains support in the disclosure on page 3, lines 12-24. The Oliver device does not have this connection for the coupling members. Instead, the Oliver device has a first hollow fitting 20 that attaches to a second hollow fitting 10 by threadable attachment to the male thread 18. This threadable attachment does not have a groove for receiving a detent as is required by claim 1. Consequently, the Oliver device does not have each and every limitation of claim 1 and therefore claim 1 is not anticipated by the Oliver reference. Additionally, claims 2, 3, and 6 depend from claim 1 and for at least this reason are not anticipated by Oliver.

Independent claim 4 has been amended to require "a plastic pipe adhesively secured within one of the end wells." This amendment is supported by the specification from page 4, lines 9-18 that discuss the outer surface of a pipe unit having adhesively secured within well 30. The wells as shown in Fig. 5 and 6 have a continuous inner surface so that a PVC pipe can be inserted into the well with a quantity of adhesive on its outer surface so as to be adhesively secured within the well 30. In contrast, the Oliver device teaches internal threads 24, 26, and 28 that allow a pipe to be threadably connected to the wells rather than being adhesively secured within the wells. Consequently, the Oliver device does not show a plastic pipe adhesively secured within a well and therefore each and every limitation of independent claim 4 is not present in the Oliver

disclosure. Consequently, the anticipation rejection must be withdrawn.

Claim 5 has been amended to require "a second hollow fitting having first and second ends with the second end fitting slidably within the second end of the first hollow fitting in sealed condition to define a fluid conduit extending through interiors of the first and second hollow fittings." This amendment is supported by the specification at page 3, lines 30-32 that discuss the fitting 18 being slidably inserted into the large diameter sleeve 40. The fitting 18 is capable of being slidably inserted into sleeve 40 because of the smooth continuous inner surface of sleeve 40. The Oliver device does not teach a smooth continuous surface, and instead teaches male threads 18 provided for hose fitting 20. (Col. 2, lines 38-39). Consequently, Oliver does not teach the second end of the fitting being slidably received within the second end of the first hollow fitting. Consequently, each and every limitation of independent claim 5 is not present and the anticipation rejection must be withdrawn.

Claims 1-6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Weir, III. An obviousness analysis begins in the text of section 103 with the phrase "at the time the invention was made." For it is this phrase that guards against entry into the "tempting but forbidden zone of hindsight when analyzing the patentability of claims pursuant to that section. See Loctite Corp. v. Ultraseal Ltd., 781 F.2d 861, 873, 228 USPQ 90, 98 (Fed. Cir. 1985), overruled on other grounds by Nobelpharma AB v. Implant Innovations, Inc., 141 F.3d 1059, 46 USPQ 2d 1097 (Fed. Cir. 1998). Measuring a claimed invention against the standard established requires the often difficult but critical step of casting the mind back to the time of the invention, to consider

the thinking of one of ordinary skill in the art, guided only by the prior art references and then-accepted wisdom in the field. See, e.g. W.L. Gore & Assoc., Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983). Close adherence to this methodology is especially important in the case of less technologically complex inventions, where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against the teacher." Id.

The best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references. See, e.g., C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1352, 48 USPQ 2d 1225, 1232 (Fed. Cir. 1998) (describing "teaching or suggestion or motivation [to combine] as an essential evidentiary component of an obviousness holding") combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability - the essence of hindsight. See, e.g. Interconnect Planning Corp. v Feil, 774 F.2d 1132, 1138, 277 USPQ 543, 547 (Fed. Cir. 1985) ("The invention must be viewed not with the blueprint drawn by the inventor, but in the state of the art that existed at the time.") In this case, the Examiner has fallen into the hindsight trap.

Evidence of a suggestion, teaching or motivation to combine may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem solved, although the suggestion more often comes from the teachings of the pertinent references. Rouffet,

149 F.3d at 1355. The range of sources available does not diminish the requirement for actual evidence. That showing must be clear and particular. See, e.g., C.R. Bard, 157 F.3d at 1352. Broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence. e.g., McElmurry v. Arkansas Power & Light Co., 995 F.2d 1576, 1578, 27 USPQ 2d 1129, 1131 (Fed. Cir. 1993) ("Mere denials and conclusory statement, however, are not sufficient to establish a genuine issue of material fact.").

The obvious rejection asserted by the Examiner is based on a combination of prior art references, e.g. The Metal and Plastic Coupling device of Taylor combined with the wells of varying size seen in Weir III for receiving pipes of various diameters. To justify this combination the Examiner stated "[I]t would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first end 34 of the second fitting 32 of Taylor with multiple wells for pipes of differing diameters as taught by Weir III (Figs. 2, 3, 7) in place of the single well 36 in order for the coupling to be more versatile by accepting more than just one sized pipe." (Office Action, page 5). Rather than pointing to specific information in Weir III that suggest the combination with the coupling device of Taylor, the Examiner described the general functions of a metal or plastic coupling device and multi wellled coupling device. Nowhere does the Examiner particularly identify any suggestion, teaching, or motivation to combine the prior art references such as the identification of the relevant art, the level of ordinary skill in the art, the nature of the problem to be solved, or any other facts or findings that might serve to support a proper obviousness analysis. (See ProMold & Tool, 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1630 (Fed. Cir. 1996)).

To the contrary, the Examiner's decision is based on a discussion of the ways the multiple prior art references can be combined to read on the claimed invention. (Office Action, Page 5). Yet this reference by reference, limitation by limitation analysis fails to demonstrate how the Weir III reference teaches or suggests its combination with Taylor to yield the claimed invention.

Even if there were a suggestion to combine the references, the invention as claimed still would not be found. The teachings or suggestions to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. See In re Vacck, 997 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); MPEP § 2143. To establish a *prima facie* case of obviousness, all the claim limitations must be taught by the prior art. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 57 C.C.P.A. 1029, 1032 (1970).

As previously discussed, amended claim 1 requires "a first hollow fitting ... having a sleeve with a detent" and "a second hollow fitting ... with the second end having a groove for receiving the detent of the first hollow fitting." The Taylor device does not have a first hollow fitting with a sleeve that has a detent that is received by a groove on the second hollow fitting. Instead, the first hollow fitting 20 is detachably secured to the second hollow fitting 32 using threads 30 and not a detent and groove as is required by claim 1. Weir, III has a connection between its first and second hollow fittings 64 and 65 via a connecting nut 80 that is threadably engaged with internal nut threads 81 and not a detent in combination with a groove connection. Therefore, each limitation of claim 1 is not

present in the prior art devices and therefore the obvious rejection must be withdrawn.

Amended claim 5 in part requires "a second hollow fitting having first and second ends with the second end fitting slidably within the second end of the first hollow fitting in a sealed condition." The Taylor device does not provide for a second hollow fitting that fits slidably with a first hollow fitting. According to the Examiner first hollow fitting 20 is connected to a second plastic hollow fitting 32. As best seen in Fig. 2 a threaded portion 28 of female connector 18 is adapted to receive in locking engagement a correspondingly threaded portion 30 formed on the outer peripheral surface of the male connector 16. (Col. 2, lines 36-40). Consequently, Taylor does not provide for the second end of the second hollow fitting slidably within the second end of the first hollow fitting as is required by claim 5. Similarly, Weir III. uses a connecting nut 80 that is provided with internal nut threads 81 which are designed to engage the first run flange threads 73 and second run flange threads 79 and join the first run flange 72 of the first run 65 to the second run flange 78 of the second run 74 as is illustrated in Fig. 10. (Col. 6, line 68-Col. 7, line 5). Consequently, neither Weir nor Taylor provide for a second hollow fitting having a second end that the slidably within the second end of a first hollow fitting as is required by the claim. Therefore, each limitation of claim 5 is not present in the prior art devices and the obvious rejection must be withdrawn.

CONCLUSION:

Applicant respectfully requests a favorable action in view of the above amendments and remarks.

If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515-558-0200.

Any fees or extensions of time believed to be due in connection with this amendment are enclosed with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 50-2098.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy J. Zarley', with a large, stylized flourish at the end.

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